

Miscellaneous  
Federal Statutes  
Requiring  
Coordination  
And  
Cooperation

# **I. FLPMA**

## **A. Statutory Coordination Requirements**

### **43 U.S.C. §1701. Congressional declaration of policy**

(a) The Congress declares that it is the policy of the United States that -

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

### **43 U.S.C. §1712. Land Use Plans**

(c) Criteria for development and revision In the development and revision of land use plans, the Secretary shall -

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended (16 U.S.C. 4601-4 et seq.), and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

## **B. Bureau of Land Management CFT Coordination Regulations**

### **43 C.F.R. §1601.0-5. Definitions**

As used in this part, the term:

(a) Areas of Critical Environmental Concern or ACEC means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes, or to protect life and safety from natural hazards. The identification of a potential ACEC shall not, of

itself, change or prevent change of the management or use of public lands.

(b) Conformity or conformance means that a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan or plan amendment.

(c) Consistent means that the Bureau of Land Management plans will adhere to the terms, conditions, and decisions of officially approved and adopted resource related plans, or in their absence, with policies and programs, subject to the qualifications in Sec. 1615.2 of this title.

(d) Guidance means any type of written communication or instruction that transmits objectives, goals, constraints, or any other direction that helps the District and Area Managers and staff know how to prepare a specific resource management plan.

(e) Local government means any political subdivision of the State and any general purpose unit of local government with resource planning, resource management, zoning, or land use regulation authority.

(f) Multiple use means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the lands for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some lands for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the lands and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(g) Officially approved and adopted resource related plans means plans, policies, programs and processes prepared and approved pursuant to and in accordance with authorization provided by Federal, State or local constitutions, legislation, or charters which have the force and effect of State law.

(h) Public means affected or interested individuals, including consumer organizations, public land resource users, corporations and other business entities, environmental organizations and other special interest groups and officials of State, local, and Indian tribal

governments.

(i) Public lands means any lands or interest in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management, except lands located on the Outer Continental Shelf and lands held for the benefit of Indians, Aleuts and Eskimos.

(j) Resource area means a geographic portion of a Bureau of Land Management district. It is the administrative subdivision whose manager has primary responsibility for day-to-day resource management activities and resource use allocations and is, in most instances, the area for which resource management plans are prepared and maintained.

(k) Resource management plan means a land use plan as described by the Federal Land Policy and Management Act. The resource management plan generally establishes in a written document:

- (1) Land areas for limited, restricted or exclusive use; designation, including ACEC designation; and transfer from Bureau of Land Management Administration;
- (2) Allowable resource uses (either singly or in combination) and related levels of production or use to be maintained;
- (3) Resource condition goals and objectives to be attained;
- (4) Program constraints and general management practices needed to achieve the above items;
- (5) Need for an area to be covered by more detailed and specific plans;
- (6) Support action, including such measures as resource protection, access development, realty action, cadastral survey, etc., as necessary to achieve the above;
- (7) General implementation sequences, where carrying out a planned action is dependent upon prior accomplishment of another planned action; and
- (8) Intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

It is not a final implementation decision on actions which require further specific plans, process steps, or decisions under specific provisions of law and regulations.

#### **43 C.F.R. §1601.0-6 Environmental impact statement policy**

Approval of a resource management plan is considered a major Federal action significantly affecting the quality of the human environment. The environmental analysis of alternatives and the proposed plan shall be accomplished as part of the resource management planning process and, wherever possible, the proposed plan and related environmental impact statement shall be published in a single document.

#### **43 C.F.R. §1601.0-7. Scope.**

- (a) These regulations apply to all public lands.
- (b) These regulations also govern the preparation of resource management plans when the only public land interest is the mineral estate.

#### **43 C.F.R. §1601.0-8. Principles.**

The development, approval, maintenance, amendment and revision of resource management plans will provide for public involvement and shall be consistent with the principles described in section 202 of the Federal Land Policy and Management Act of 1976. Additionally, the impact on local economies and uses of adjacent or nearby non-Federal lands and on non-public land surface over federally-owned mineral interests shall be considered.

#### **43 C.F.R. §1610.1. Resource management planning guidance.**

(a) Guidance for preparation and amendment of resource management plans may be provided by the Director and State Director, as needed, to help the District and Area Manager and staff prepare a specific plan. Such guidance may include the following:

(1) National level policy which has been established through legislation, regulations, executive orders or other Presidential, Secretarial or Director approved documents. This policy may include appropriately developed resource management commitments, such as a right-of-way corridor crossing several resource areas, which are not required to be reexamined as part of the planning process.

(2) Analysis requirements, planning procedures and other written information and instructions required to be considered in the planning process.

(3) Guidance developed at the State Director level, with necessary and appropriate governmental coordination as prescribed by Sec. 1610.3 of this title. Such guidance shall be reconsidered by the State Director at any time during the planning process that the State Director level guidance is found, through public involvement or other means, to be inappropriate when applied to a specific area being planned.

(b) A resource management plan shall be prepared and maintained on a resource area basis, unless the State Director authorizes a more appropriate area.

(c) An interdisciplinary approach shall be used in the preparation, amendment and revision of resource management plans as provided in 40 CFR 1502.6. The disciplines of the preparers shall be appropriate to the values involved and the issues identified during the issue identification and environmental impact statement scoping stage of the planning process. The District or Area Manager may use any necessary combination of Bureau of Land Management staff, consultants, contractors, other governmental personnel, and advisors to achieve an interdisciplinary approach.

#### **43 C.F.R. §1610.2. Public participation.**

(a) The public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities. Public involvement in the resource management planning process shall conform to the requirements of the National Environmental Policy Act and

associated implementing regulations.

(b) The Director shall, early in each fiscal year, publish a planning schedule advising the public of the status of each plan in process of preparation or to be started during that fiscal year, the major action on each plan during that fiscal year and projected new planning starts for the 3 succeeding fiscal years. The notice shall call for public comments on projected new planning starts so that such comments can be considered in refining priorities for those years.

(c) Upon starting the preparation, amendment or revision of resource management plans, public participation shall be initiated by a notice published in the Federal Register and appropriate media, including newspapers of general circulation in the State, adjoining States where the District Manager deems it appropriate, and the District. This notice may also constitute the scoping notice required by regulation for the National Environmental Policy Act (40 CFR 1501.7). This notice shall include the following:

- (1) Description of the proposed planning action;
- (2) Identification of the geographic area for which the plan is to be prepared;
- (3) The general types of issues anticipated;
- (4) The disciplines to be represented and used to prepare the plan;
- (5) The kind and extent of public participation opportunities to be provided;
- (6) The times, dates and locations scheduled or anticipated for any public meetings, hearings, conferences or other gatherings, as known at the time;
- (7) The name, title, address and telephone number of the Bureau of Land Management official who may be contacted for further information; and
- (8) The location and availability of documents relevant to the planning process.

(d) A list of individuals and groups known to be interested in or affected by a resource management plan shall be maintained by the District Manager and those on the list shall be notified of public participation activities. Individuals or groups may ask to be placed on this list. Public participation activities conducted by the Bureau of Land Management shall be documented by a record or summary of the principal issues discussed and comments made.

The documentation together with a list of attendees shall be available to the public and open for 30 days to any participant who wishes to clarify the views he/she expressed.

(e) At least 15 days' public notice shall be given for public participation activities where the public is invited to attend. Any notice requesting written comments shall provide for at least 30 calendar days for response. Ninety days shall be provided for review of the draft plan and draft environmental impact statement. The 90-day period shall begin when the Environmental Protection Agency publishes a notice of the filing of the draft environmental impact statement in the Federal Register.

(f) Public notice and opportunity for participation in resource management plan preparation shall be appropriate to the areas and people involved and shall be provided at the following specific points in the planning process:

- (1) General notice at the outset of the process inviting participation in the identification of issues (See Secs. 1610.2(c) and 1610.4-1);

- (2) Review of the proposed planning criteria (See Sec. 1610.4-2);
- (3) Publication of the draft resource management plan and draft environmental impact statement (See Sec. 1610.4-7);
- (4) Publication of the proposed resource management plan and final environmental impact statement which triggers the opportunity for protest (See Secs. 1610.4-8 and 1610.5-1(b)); and
- (5) Public notice and comment on any significant change made to the plan as a result of action on a protest (See Sec. 1610.5-1(b)).
- (g) Copies of an approved resource management plan and amendments shall be reasonably available for public review. This includes copies at the State Office for the District, the District Manager's Office, the Area Office for lands directly involved and additional locations determined by the District Manager. Plans, amendments and revisions shall be published and single copies shall be available to the public upon request during the public participation process. After approval, a fee may be charged for additional copies at a rate established by the Director.
- (h) Supporting documents to a resource management plan shall be available for public review at the office where the plan was prepared.
- (i) Fees for reproducing requested documents beyond those used as part of the public participation activities and other than single copies of the printed plan amendment or revision may be charged according to the Department of the Interior schedule for Freedom of Information Act requests in 43 CFR part 2.
- (j) When resource management plans involve areas of potential mining for coal by means other than underground mining, and the surface is privately owned, the Bureau of Land Management shall consult with all surface owners who meet the criteria in Sec. 3400.0-5 of this title. Contact shall be made in accordance with subpart 3427 of this title and shall provide time to fully consider surface owner views. This contact may be made by mail or in person by the District or Area Manager or his/her appropriate representative. A period of at least 30 days from the time of contact shall be provided for surface owners to convey their preference to the Area or District Manager.
- (k) If the plan involves potential for coal leasing, a public hearing shall be provided prior to the approval of the plan, if requested by any person having an interest which is, or may be, adversely affected by implementation of such plan. The hearing shall be conducted as prescribed in Sec. 3420.1-5 of this title and may be combined with a regularly scheduled public meeting. The authorized officer conducting the hearing shall:
  - (1) Publish a notice of the hearing in a newspaper of general circulation in the affected geographical area at least once a week for 2 consecutive weeks;
  - (2) Provide an opportunity for testimony by anyone who so desires; and
  - (3) Prepare a record of the proceedings of the hearing.

### **43 C.F.R. §1610.3. Coordination with other Federal agencies, State and local governments, and Indian tribes.**

#### **43 C.F.R. §1610.3-1. Coordination of planning efforts.**

- (a) In addition to the public involvement prescribed by Sec. 1610.2 of this title the following coordination is to be accomplished with other Federal agencies, State and local governments, and Indian tribes. The



objectives of the coordination are for the State Directors and District and Area Managers to keep apprised of non-Bureau of Land Management plans; assure that consideration is given to those plans that are germane in the development of resource management plans for public lands; assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans; and provide for meaningful public involvement of other Federal agencies, State and local government officials, both elected and appointed, and Indian tribes in the development of resource management plans, including early public notice of proposed decisions which may have a significant impact on non-Federal lands.

(b) State Directors and District and Area Managers shall provide other Federal agencies, State and local governments, and Indian tribes opportunity for review, advice, and suggestion on issues and topics which may affect or influence other agency or other government programs. To facilitate coordination with State governments, State Directors should seek the policy advice of the Governor(s) on the timing, scope and coordination of plan components; definition of planning areas; scheduling of public involvement activities; and the multiple use opportunities and constraints on public lands. State Directors may seek written agreements with Governors or their designated representatives on processes and procedural topics such as exchanging information, providing advice and participation, and timeframes for receiving State government participation and review in a timely fashion. If an agreement is not reached, the State Director shall provide opportunity for Governor and State agency review, advice and suggestions on issues and topics that the State Director has reason to believe could affect or influence State government programs.

(c) In developing guidance to District Managers, in compliance with section 1611 of this title, the State Director shall:

(1) Ensure that it is as consistent as possible with existing officially adopted and approved resource related plans, policies or programs of other Federal agencies, State agencies, Indian tribes and local governments that may be affected, as prescribed by Sec. 1610.3-2 of this title;

(2) Identify areas where the proposed guidance is inconsistent with such policies, plans or programs and provide reasons why the inconsistencies exist and cannot be remedied; and

(3) Notify the other Federal agencies, State agencies, Indian tribes

or local governments with whom consistency is not achieved and indicate any appropriate methods, procedures, actions and/or programs which the State Director believes may lead to resolution of such inconsistencies.

(d) A notice of intent to prepare, amend, or revise a resource management plan shall be submitted, consistent with State procedures for coordination of Federal activities, for circulation among State agencies. This notice shall also be submitted to Federal agencies, the heads of county boards, other local government units and Tribal Chairmen or Alaska Native Leaders that have requested such notices or that the responsible line manager has reason to believe would be concerned with the plan or amendment. These notices shall be issued simultaneously with the public notices required under Sec. 1610.2(b) of this title.

(e) Federal agencies, State and local governments and Indian tribes shall have the time period prescribed under Sec. 1610.2 of this title for review and comment on resource management plan proposals. Should they notify the District or Area Manager, in writing, of what they believe to be specific inconsistencies between the Bureau of Land

Management resource management plan and their officially approved and adopted resources related plans, the resource management plan documentation shall show how those inconsistencies were addressed and, if possible, resolved.

(f) When an Advisory Council has been formed under section 309 of the Federal Land Policy and Management Act for the district in which the resource area is located, that council shall be informed and their views sought and considered throughout the resource management planning process.

#### **43 C.F.R. §1610.4. Resource management planning process.**

##### **43 C.F.R. §1610.4-1. Identification of issues.**

At the outset of the planning process, the public, other Federal agencies, State and local governments and Indian tribes shall be given an opportunity to suggest concerns, needs, and resource use, development and protection opportunities for consideration in the preparation of the resource management plan. The District and Area Manager shall analyze those suggestions, plus available district records of resource conditions, trends, needs and problems, and select topics and determine the issues to be addressed during the planning process. Issues may be modified during the planning process to incorporate new information. The identification of issues shall also comply with the scoping process required by regulations implementing the National Environmental Policy Act (40 CFR 1501.7).

##### **43 C.F.R. §1610.4-2. Development of planning criteria.**

The District or Area Manager shall prepare criteria to guide development of the resource management plan or revision, to ensure that it is tailored to the issues previously identified and to ensure that unnecessary data collection and analyses are avoided. Planning criteria shall generally be based upon applicable law, Director and State Director guidance, the results of public participation and coordination with other Federal agencies, State and local governments and Indian tribes. Proposed planning criteria, including any significant changes, shall be made available for public comment prior to being approved by the District manager for use in the planning process. Planning criteria may be changed as planning proceeds, based on public suggestions and the findings of the various studies and assessments.

##### **43 C.F.R. §1610.4-3. Inventory data and information collection.**

(a) The District or Area Manager shall arrange for resource, environmental, social, economic and institutional data and information to be collected, or assembled if already available. New information and inventory data collection will emphasize significant issues and decisions with the greatest potential impact. Inventory data and information shall be collected in a manner that aids application in the planning process, including subsequent monitoring requirements.

##### **43 C.F.R. §1610.4-4. Analysis of the management situation.**

The District or Area Manager shall analyze the inventory data and other information available to determine the ability of the resource area to respond to identified issues and opportunities. The analysis of the management situation shall provide, consistent with multiple use

principles, the basis for formulating reasonable alternatives, including the types of resources for development or protection. Factors to be considered may include, but are not limited to:

- (a) The types of resource use and protection authorized by the Federal Land Policy and Management Act and other relevant legislation;
- (b) Opportunities to meet goals and objectives defined in national and State Director guidance;
- (c) Resource demand forecasts and analyses relevant to the resource area;
- (d) The estimated sustained levels of the various goods, services and uses that may be attained under existing biological and physical conditions and under differing management practices and degrees of management intensity which are economically viable under benefit cost or cost effectiveness standards prescribed in national or State Director guidance;
- (e) Specific requirements and constraints to achieve consistency with policies, plans and programs of other Federal agencies, State and local government agencies and Indian tribes;
- (f) Opportunities to resolve public issues and management concerns;
- (g) Degree of local dependence on resources from public lands;
- (h) The extent of coal lands which may be further considered under provisions of Sec. 3420.2-3(a) of this title; and
- (i) Critical threshold levels which should be considered in the formulation of planned alternatives.

#### **43 C.F.R. §1610.4-5. Formulation of alternatives.**

All reasonable resource management alternatives shall be considered and several complete alternatives developed for detailed study. The alternatives developed shall reflect the variety of issues and guidance applicable to the resource uses. In order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, all reasonable variations shall be treated as subalternatives. One alternative shall be for no action, which means continuation of present level or systems of resource use. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.

#### **43 C.F.R. §1610.4-6. Estimation of effects of alternatives.**

The District or Area Manager shall estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail. The estimation of effects shall be guided by the planning criteria and procedures implementing the National Environmental Policy Act. The estimate may be stated in terms of probable ranges where effects cannot be precisely determined.

#### **43 C.F.R. §1610.4-7. Selection of preferred alternative.**

The District or Area Manager shall evaluate the alternatives and the estimation of their effects according to the planning criteria, and develop a preferred alternative which shall best meet Director and State Director guidance. The preferred alternative shall be incorporated into the draft resource management plan and draft environmental impact statement. The resulting draft resource management plan and draft environmental impact statement shall be forwarded to the State Director

for approval, publication, and filing with the Environmental Protection Agency. This draft plan and environmental impact statement shall be provided for comment to the Governor of the State involved, and to officials of other Federal agencies, State and local governments and Indian tribes that the State Director has reason to believe would be concerned. This action shall constitute compliance with the requirements of Sec. 3420.1-7 of this title.

#### **43 C.F.R. §1610.4-8. Selection of resource management plan.**

After publication of the draft resource management plan and draft environmental impact statement, the District Manager shall evaluate the comments received and select and recommend to the State Director, for supervisory review and publication, a proposed resource management plan and final environmental impact statement. After supervisory review of the proposed resource management plan, the State Director shall publish the plan and file the related environmental impact statement.

#### **43 C.F.R. §1610.4-9. Monitoring and evaluation.**

The proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan. Such intervals and standards shall be based on the sensitivity of the resource to the decisions involved and shall provide for evaluation to determine whether mitigation measures are satisfactory, whether there has been significant change in the related plans of other Federal agencies, State or local governments, or Indian tribes, or whether there is new data of significance to the plan. The District Manager shall be responsible for monitoring and evaluating the plan in accordance with the established intervals and standards and at other times as appropriate to determine whether there is sufficient cause to warrant amendment or revision of the plan.

#### **43 C.F.R. §1610.5. Resource management plan approval, use and modification**

##### **43 C.F.R. §1610.5-1. Resource management plan approval and administrative review.**

(a) The proposed resource management plan or revision shall be submitted by the District Manager to the State Director for supervisory review and approval. When the review is completed the State Director shall either publish the proposed plan and file the related environmental impact statement or return the plan to the District Manager with a written statement of the problems to be resolved before the proposed plan can be published.

(b) No earlier than 30 days after the Environmental Protection Agency publishes a notice of the filing of the final environmental impact statement in the Federal Register, and pending final action on any protest that may be filed, the State Director shall approve the plan. Approval shall be withheld on any portion of a plan or amendment being protested until final action has been completed on such protest. Before such approval is given, there shall be public notice and opportunity for public comment on any significant change made to the proposed plan. The approval shall be documented in a concise public record of the decision,

meeting the requirements of regulations for the National Environmental Policy Act of 1969 (40 CFR 1505.2).

#### **43 C.F.R. §1610.5-2. Protest procedures.**

(a) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may raise only those issues which were submitted for the record during the planning process.

(1) The protest shall be in writing and shall be filed with the Director. The protest shall be filed within 30 days of the date the Environmental Protection Agency published the notice of receipt of the final environmental impact statement containing the plan or amendment in the Federal Register. For an amendment not requiring the preparation of an environmental impact statement, the protest shall be filed within 30 days of the publication of the notice of its effective date.

(2) The protest shall contain:

(i) The name, mailing address, telephone number and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested;

(iii) A statement of the part or parts of the plan or amendment being protested;

(iv) A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record; and

(v) A concise statement explaining why the State Director's decision is believed to be wrong.

(3) The Director shall promptly render a decision on the protest. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the protesting party by certified mail, return receipt requested.

(b) The decision of the Director shall be the final decision of the Department of the Interior.

#### **43 C.F.R. §1610.5-3. Conformity and implementation.**

(a) All future resource management authorizations and actions, as well as budget or other action proposals to higher levels in the Bureau of Land Management and Department, and subsequent more detailed or specific planning, shall conform to the approved plan.

(b) After a plan is approved or amended, and if otherwise authorized by law, regulation, contract, permit, cooperative agreement or other instrument of occupancy and use, the District and Area Manager shall take appropriate measures, subject to valid existing rights, to make operations and activities under existing permits, contracts, cooperative agreements or other instruments for occupancy and use, conform to the approved plan or amendment within a reasonable period of time. Any person adversely affected by a specific action being proposed to implement some portion of a resource management plan or amendment may appeal such action pursuant to 43 CFR 4.400 at the time the action is proposed for implementation.

(c) If a proposed action is not in conformance, and warrants further consideration before a plan revision is scheduled, such consideration shall be through a plan amendment in accordance with the provisions of

Sec. 1610.5-5 of this title.

(d) More detailed and site specific plans for coal, oil shale and tar sand resources shall be prepared in accordance with specific regulations for those resources: Group 3400 of this title for coal; Group 3900 of this title for oil shale; and part 3140 of this title for tar sand. These activity plans shall be in conformance with land use plans prepared and approved under the provisions of this part.

#### **43 C.F.R. §1610.5-4. Maintenance.**

Resource management plans and supporting components shall be maintained as necessary to reflect minor changes in data. Such maintenance is limited to further refining or documenting a previously approved decision incorporated in the plan. Maintenance shall not result in expansion in the scope of resource uses or restrictions, or change the terms, conditions, and decisions of the approved plan. Maintenance is not considered a plan amendment and shall not require the formal public involvement and interagency coordination process described under Secs. 1610.2 and 1610.3 of this title or the preparation of an environmental assessment or environmental impact statement. Maintenance shall be documented in plans and supporting records.

#### **43 C.F.R. §1610.5-5. Amendment.**

A resource management plan may be changed through amendment. An amendment shall be initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan. An amendment shall be made through an environmental assessment of the proposed change, or an environmental impact statement, if necessary, public involvement as prescribed in Sec. 1610.2 of this title, interagency coordination and consistency determination as prescribed in Sec. 1610.3 of this title and any other data or analysis that may be appropriate. In all cases, the effect of the amendment on the plan shall be evaluated. If the amendment is being considered in response to a specific proposal, the analysis required for the proposal and for the amendment may occur simultaneously.

(a) If the environmental assessment does not disclose significant impact, a finding of no significant impact may be made by the District Manager. The District Manager shall then make a recommendation on the amendment to the State Director for approval, and upon approval, the District Manager shall issue a public notice of the action taken on the amendment. If the amendment is approved, it may be implemented 30 days after such notice.

(b) If a decision is made to prepare an environmental impact statement, the amending process shall follow the same procedure required for the preparation and approval of the plan, but consideration shall be limited to that portion of the plan being considered for amendment. If several plans are being amended simultaneously, a single environmental impact statement may be prepared to cover all amendments.

#### **43 C.F.R. §1610.5-6. Revision.**

A resource management plan shall be revised as necessary, based on monitoring and evaluation findings (Sec. 1610.4-9), new data, new or

revised policy and changes in circumstances affecting the entire plan or major portions of the plan. Revisions shall comply with all of the requirements of these regulations for preparing and approving an original resource management plan.

#### **43 C.F.R. §1610.5-7. Situations where action can be taken based on another agency's plan, or a land use analysis.**

These regulations authorize the preparation of a resource management plan for whatever public land interests exist in a given land area. There are situations of mixed ownership where the public land estate is under non-Federal surface, or administration of the land is shared by the Bureau of Land Management with another Federal agency. The District and Area Manager may use the plans or the land use analysis of other agencies when split or shared estate conditions exist in any of the following situations:

(a) Another agency's plan (Federal, State, or local) may be used as a basis for an action only if it is comprehensive and has considered the public land interest involved in a way comparable to the manner in which it would have been considered in a resource management plan, including the opportunity for public participation.

(b) After evaluation and review, the Bureau of Land Management may adopt another agency's plan for continued use as a resource management plan if an agreement is reached between the Bureau of Land Management and the other agency to provide for maintenance and amendment of the plan, as necessary, to comply with law and policy applicable to public lands.

(c) A land use analysis may be used to consider a coal lease when there is no Federal ownership interest in the surface or when coal resources are insufficient to justify plan preparation costs. The land use analysis process, as authorized by the Federal Coal Leasing Amendments Act, consists of an environmental assessment or impact statement, public participation as required by Sec. 1610.2 of this title, the consultation and consistency determinations required by Sec. 1610.3 of this title, the protest procedure prescribed by Sec. 1610.5-2 of this title and a decision on the coal lease proposal. A land use analysis meets the planning requirements of section 202 of the Federal Land Policy and Management Act. The decision to approve the land use analysis and to lease coal is made by the Departmental official who has been delegated the authority to issue coal leases.

#### **43 C.F.R. §1610.6. Management decision review by Congress.**

The Federal Land Policy and Management Act requires that any Bureau of Land Management management decision or action pursuant to a management decision which totally eliminates one or more principal or major uses for 2 or more years with respect to a tract of 100,000 acres or more, shall be reported by the Secretary to Congress before it can be implemented. This report shall not be required prior to approval of a resource management plan which, if fully or partially implemented, would result in such an elimination. The required report shall be submitted as the first action step in implementing that portion of a resource management plan which would require elimination of such a use.

#### **43 C.F.R. §1610.7. Designation of areas.**

#### **43 C.F.R. §1610.7-1. Designation of areas unsuitable for surface mining.**

(a)(1) The planning process is the chief process by which public land is reviewed to assess whether there are areas unsuitable for all or certain types of surface coal mining operations under section 522(b) of the Surface Mining Control and Reclamation Act. The unsuitability criteria to be applied during the planning process are found in Sec. 3461.1 of this title.

(2) When petitions to designate land unsuitable under section 522(c)

of the Surface Mining Control and Reclamation Act are referred to the Bureau of Land Management for comment, the resource management plan, or plan amendment if available, shall be the basis for review.

(3) After a resource management plan or plan amendment is approved in which lands are assessed as unsuitable, the District Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to all or certain types of coal mining.

(b)(1) The resource management planning process is the chief process by which public lands are reviewed for designation as unsuitable for entry or leasing for mining operations for minerals and materials other than coal under section 601 of the Surface Mining Control and Reclamation Act.

(2) When petitions to designate lands unsuitable under section 601 of the Surface Mining Control and Reclamation Act are received by the Bureau of Land Management, the resource management plan, if available, shall be the basis for determinations for designation.

(3) After a resource management plan or plan amendment in which lands are designated unsuitable is approved, the District Manager shall take all necessary steps to implement the results of the unsuitability review as it applies to minerals or materials other than coal.

#### **43 C.F.R. §1610.7-2. Designation of areas of critical environmental concern.**

Areas having potential for Areas of Critical Environmental Concern (ACEC) designation and protection management shall be identified and considered throughout the resource management planning process (see Secs. 1610.4-1 through 1610.4-9).

(a) The inventory data shall be analyzed to determine whether there are areas containing resources, values, systems or processes or hazards eligible for further consideration for designation as an ACEC. In order to be a potential ACEC, both of the following criteria shall be met:

(1) Relevance. There shall be present a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.

(2) Importance. The above described value, resource, system, process, or hazard shall have substantial significance and values. This generally requires qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern. A natural hazard can be important if it is a significant threat to human life or property.

(b) The State Director, upon approval of a draft resource management plan, plan revision, or plan amendment involving ACECs, shall publish a notice in the Federal Register listing each ACEC proposed and specifying



the resource use limitations, if any, which would occur if it were formally designated. The notice shall provide a 60-day period for public comment on the proposed ACEC designation. The approval of a resource management plan, plan revision, or plan amendment constitutes formal designation of any ACEC involved. The approved plan shall include the general management practices and uses, including mitigating measures, identified to protect designated ACEC.

#### **43 C.F.R. §1610.8. Transition period.**

(a) Until superseded by resource management plans, management framework plans may be the basis for considering proposed actions as follows:

(1) The management framework plan shall be in compliance with the principle of multiple use and sustained yield and shall have been developed with public participation and governmental coordination, but not necessarily precisely as prescribed in Secs. 1610.2 and 1610.3 of this title.

(2) No sooner than 30 days after the Environmental Protection Agency publishes a notice of the filing of a final court-ordered environmental impact statement--which is based on a management framework plan--proposed actions may be initiated without any further analysis or processes included in this subpart.

(3) For proposed actions other than those described in paragraph (a)(2) of this section, determination shall be made by the District or Area Manager whether the proposed action is in conformance with the management framework plan. Such determination shall be in writing and shall explain the reasons for the determination.

(i) If the proposed action is in conformance, it may be further considered for decision under procedures applicable to that type of action, including requirements of regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR parts 1500-1508.

(ii) If the proposed action is not in conformance with the management framework plan, and if the proposed action warrants further favorable consideration before a resource management plan is scheduled for preparation, such consideration shall be through a management framework plan amendment using the provisions of Sec. 1610.5-5 of this title.

(b)(1) If an action is proposed where public lands are not covered by a management framework plan or a resource management plan, an environmental assessment and an environmental impact statement, if necessary, plus any other data and analysis necessary to make an informed decision, shall be used to assess the impacts of the proposal and to provide a basis for a decision on the proposal.

(2) A land disposal action may be considered before a resource management plan is scheduled for preparation, through a planning analysis, using the process described in Sec. 1610.5-5 of this title for amending a plan.

## **II. NEPA**

### **A. Statutory Coordination Requirements**

## **42 U.S.C. §4331. Congressional declaration of national environmental policy**

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may -

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
- (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

## **42 U.S.C. §4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts**

(2) all agencies of the Federal Government shall -

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on -

(iii) alternatives to the proposed action,

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section [552](#) of title 5, and shall accompany the proposal through the existing agency review processes;

## **B. NEPA CFR Coordination Regulations**

### **40 C.F.R. §1502.16. Environmental consequences**

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See Sec. 1506.2(d).)

### **40 C.F.R. §1506.2. Elimination of duplication with State and local procedures**

(b) Agencies shall cooperate with State and local agencies to the fullest extent possible to reduce duplication between NEPA and State and local requirements, unless the agencies are specifically barred from doing so by some other law. Except for cases covered by paragraph (a) of this section, such cooperation shall to the fullest extent possible include:

- (1) Joint planning processes.
- (2) Joint environmental research and studies.
- (3) Joint public hearings (except where otherwise provided by statute).
- (4) Joint environmental assessments.

(d) To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan and laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

### **40 C.F.R. § 1508.20 Mitigation.**

*Mitigation* includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- (e) Compensating for the impact by replacing or providing substitute resources or environments.

### **III. Endangered Species Act**

#### **A. Statutory Requirements**

#### **16 U.S.C. § 1533. Determination of endangered species and threatened species**

##### **(b) Basis for determinations**

(1)(A) The Secretary shall make determinations required by subsection (a)(1) of this section solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species and after taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction; or on the high seas.

(2) The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) of this section on the basis of the best scientific data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

##### **(f) Recovery plans**

(1) The Secretary shall develop and implement plans (hereinafter in this subsection referred to as "recovery plans") for the conservation and survival of endangered species and threatened

species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable -

(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

(B) incorporate in each plan -

(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

(3) The Secretary shall report every two years to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed.

(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan.

(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).

## **B. Regulations**

### **50 C.F.R. § 424.16. Proposed rules**

(a) General. Based on the information received through Secs. 424.13, 424.14, 424.15, and 424.21, or through other available avenues, the Secretary may propose revising the lists as described in Sec. 424.10.

(b) Contents. A notice of a proposed rule to carry out one of the actions described in Sec. 424.10 shall contain the complete text of the proposed rule, a summary of the data on which the proposal is based (including, as appropriate, citation of pertinent information sources), and shall show the relationship of such data to the rule proposed. If such a rule designates or revises critical habitat, such summary shall, to the maximum extent practicable, include a brief description and evaluation of those activities (whether public or private) that, in the opinion of the Secretary, if undertaken, may adversely modify such habitat, or may be affected by such designation. Any proposed rule to designate or revise critical habitat shall contain a map of such habitat. Any such notice proposing the listing, delisting, or reclassification of a species or the designation or revision of critical habitat shall also include a summary of factors affecting the species and/or critical habitat.

(c) Procedures--(1) Notifications. In the case of any proposed rule to list, delist, or reclassify a species, or to designate or revise critical habitat, the Secretary shall--

(i) Publish notice of the proposal in the Federal Register;

(ii) Give actual notice of the proposed regulation (including the complete text of the regulation) to the State agency in each State in which the species is believed to occur, and to each county or equivalent jurisdiction therein in which the species is believed to occur, and invite the comment of each such agency and jurisdiction;

(iii) Give notice of the proposed regulation to any Federal agencies, local authorities, or private individuals or organizations known to be affected by the rule;

(iv) Insofar as practical, and in cooperation with the Secretary of State, give notice of the proposed regulation to list, delist, or reclassify a species to each foreign nation in which the species is believed to occur or whose citizens harvest the species on the high seas, and invite the comment of such nation;

(v) Give notice of the proposed regulation to such professional scientific organizations as the Secretary deems appropriate; and

(vi) Publish a summary of the proposed regulation in a newspaper of general circulation in each area of the United States in which the species is believed to occur.

(2) Period of public comments. At least 60 days shall be allowed for public comment following publication in the Federal Register of a rule proposing the listing, delisting, or reclassification of a species, or the designation or revision of critical habitat. All other proposed rules shall be subject to a comment period of at least 30 days following publication in the Federal Register. The Secretary may extend or reopen the period for public comment on a proposed rule upon a finding that there is good cause to do so. A notice of any such extension or reopening shall be published in the Federal Register, and shall specify

the basis for so doing.

(3) Public hearings. The Secretary shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list, delist, or reclassify a species, or to designate or revise critical habitat. Notice of the location and time of any such hearing shall be published in the Federal Register not less than 15 days before the hearing is held.

## **IV. Wild and Scenic River Act**

### **16 U.S.C. §1271. Congressional declaration of policy**

It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes

### **16 U.S.C. §1279. Withdrawal of public lands from entry, sale, or other disposition under public land laws**

(b) Lands constituting bed or bank of river; lands within bank area

All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section [1276](#)(a) of this title are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section [1278](#)(b) of this title. Notwithstanding the foregoing provisions of this subsection or any other provision of this chapter, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act ([43](#) U.S.C. [1601](#) et seq.), all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section [1276](#)(a) of this title are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section [1278](#)(b) of this title.

### **16 U.S.C. §1282. Assistance to State and local projects**

(b) Assistance of Secretaries of the Interior, Agriculture, or other Federal agency heads; use of Federal facilities, equipment, etc.; conditions on permits or other authorizations

(1) The Secretary of the Interior, the Secretary of Agriculture, or the head of any other Federal agency, shall assist, advise, and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect, and manage river resources. Such assistance, advice, and cooperation may be through written agreements or otherwise. This authority applies within or outside a federally administered area and applies to rivers which are components of the National Wild and Scenic Rivers System and to other rivers. Any agreement under this subsection may include provisions for limited financial or other assistance to encourage participation in the acquisition, protection, and management of river resources.

#### **16 U.S.C. §1284. Existing State jurisdiction and responsibilities**

##### **(b) Compensation for water rights**

The jurisdiction of the States and the United States over waters of any stream included in a national wild, scenic or recreation river area shall be determined by established principles of law. Under the provisions of this chapter, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

#### **16 U.S.C. §1276. Rivers constituting potential additions to national wild and scenic rivers system**

##### **(c) State participation**

The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

#### **16 U.S.C. §1281. Administration**

##### **(e) Cooperative agreements with State and local governments**

The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and



administration of components of the system which include or adjoin State- or county-owned lands.

#### **16 U.S.C. §1283. Management policies**

(b) Existing rights, privileges, and contracts affecting Federal lands

Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without consent of said party.

#### **16 U.S.C. §1277. Land acquisition**

(c) Curtailment of condemnation power in urban areas covered by valid and satisfactory zoning ordinances

Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this chapter. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this chapter. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this chapter, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

## **V. Clean Air Act**

#### **42 U.S.C. §7401. Congressional findings and declaration of purpose**

(a) Findings

(3) that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments;

#### **42 U.S.C. §7402. Cooperative activities**

(a) Interstate cooperation; uniform State laws; State compacts

The Administrator shall encourage cooperative activities by the States and local governments for the prevention and control of air pollution; encourage the enactment of improved and, so far as practicable in the light of varying conditions and needs, uniform State

and local laws relating to the prevention and control of air pollution; and encourage the making of agreements and compacts between States for the prevention and control of air pollution.

In carrying out the requirements of this chapter requiring applicable implementation plans to contain -

(1) any transportation controls, air quality maintenance plan requirements or preconstruction review of direct sources of air pollution, or

(2) any measure referred to -

(A) in part D of this subchapter (pertaining to nonattainment requirements), or

(B) in part C of this subchapter (pertaining to prevention of significant deterioration), and in carrying out the requirements of section 7413(d) (FOOTNOTE 1) of this title (relating to certain enforcement orders), the State shall provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments and any Federal land manager having authority over Federal land to which the State plan applies, effective with respect to any such requirement which is adopted more than one year after August 7, 1977, as part of such plan. Such process shall be in accordance with regulations promulgated by the Administrator to assure adequate consultation. The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before November 15, 1990) to ensure adequate consultation. Only a general purpose unit of local government, regional agency, or council of governments adversely affected by action of the Administrator approving any portion of a plan referred to in this subsection may petition for judicial review of such action on the basis of a violation of the requirements of this section.

## **VI. Clean Water Act**

### **33 U.S.C. §1251. Congressional declaration of goals and policy**

(g) Authority of States over water

It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this chapter. It is the further policy of Congress that nothing in this chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State. Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources

### **33 U.S.C. § 1252. Comprehensive programs for water pollution control**

#### **(a) Preparation and development**

The Administrator shall, after careful investigation, and in cooperation with other Federal agencies, State water pollution control agencies, interstate agencies, and the municipalities and industries involved, prepare or develop comprehensive programs for preventing, reducing, or eliminating the pollution of the navigable waters and ground waters and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for the protection and propagation of fish and aquatic life and wildlife, recreational purposes, and the withdrawal of such waters for public water supply, agricultural, industrial, and other purposes. For the purpose of this section, the Administrator is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may adversely affect such waters.

## **VII. Soil and Water Resources Conservation Act**

### **16 U.S.C. § 2003. Congressional policy and declaration of purpose**

#### **(b) Full utilization of cooperative arrangements with State agencies**

Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this chapter consistent with the roles and responsibilities of the non-Federal agencies, landowners and land users.

### **16 U.S.C. §2008. Utilization of available information and data**

In the implementation of this chapter, the Secretary shall utilize information and data available from other Federal, State, and local governments, and private organizations and he shall coordinate his actions with the resource appraisal and planning efforts of other Federal agencies and avoid unnecessary duplication and overlap of planning and program efforts.

## **VIII. Resource Conservation Act of 1981**

### **16 U.S.C. §3451. Statement of purpose**

It is the purpose of this subchapter to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development.

### **16 U.S.C. §3455. Authority of Secretary**

In carrying out the provisions of this subchapter, the Secretary may -

- (1) provide technical assistance to any State, local unit of government, or local nonprofit organization within a designated area to assist in developing and implementing an area plan for that area;
- (2) cooperate with other departments and agencies of the Federal Government, State, and local units of government, and with local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;
- (3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical and financial assistance to any State, local unit of government, or local nonprofit organization designated to receive such assistance by the Governor or legislature of the State concerned; and
- (4) enter into agreements with States, local units of government, and local nonprofit organizations, as provided in section [3456](#) of this title.

### **16 U.S.C. §3456. Technical and financial assistance**

#### **(a) Eligibility and criteria**

Technical and financial assistance, including loans, may be provided by the Secretary to any State, local unit of government, or local nonprofit organization to assist in carrying out works of improvement specified in an area plan approved by the Secretary only if -

- (4) the works of improvements provided for in the area plan are consistent with any current comprehensive plan for such area;